

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

OGALLALA COMMUNITY HOSPITAL)	
AND HEALTH FOUNDATION,)	
)	
Plaintiff,)	7:04CV5012
)	
v.)	
)	
VITZTUM COMMERCIAL FLOORING,)	ORDER
INC., a Kansas corporation,)	
AMCO INSURANCE COMPANY, an)	
Iowa corporation, surety;)	
HORTY ELVING CONSTRUCTION)	
SERVICES, INC., a Minnesota)	
corporation, d/b/a)	
CONSTRUCTION COORDINATORS,)	
INC., and HORTY ELVING &)	
ASSOCIATES, INC., a Minnesota)	
corporation,)	
)	
Defendants.)	
)	

This matter is before the Court on the report and recommendation of the bankruptcy judge (Filing No. 69), and plaintiff's application to proceed without the third party defendant, Mankini Vinyl Installation (Filing No. 70). The Court has reviewed the report and recommendation as well as plaintiff's application to proceed without the third party defendant. Accordingly,

IT IS ORDERED:

- 1) The report and recommendation of the bankruptcy judge is affirmed and adopted.
- 2) Reference to the bankruptcy court is withdrawn.

3) This matter shall proceed in the United States District Court for the District of Nebraska pursuant to the Corrected Amended Final Progression Order filed June 6, 2005 (Filing No. 66), subject to a review if any party determines the delay caused by the Suggestion in Bankruptcy (Filing No. 67) impeded the completion of discovery.

DATED this 8th day of August, 2005.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court